## LABOUR DEPARTMENT

The 27th April, 1985

No. 9/5/84-6Lab/3074.—In pursuance of the provisions of section 17 of Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workmen and the management of M/s Cast Master, Sector 6, Plot No. 46, Faridabad:—

BEFORE SHRI R. N. BATRA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA, FARIDABAD

Reference No. 615/1983

between

SHRI DASHRATH PARSHAD, WORKMAN AND THE MANAGEMENT OF M/S CAST MASTER, SECTOR-6, PLOT NO. 46, FARIDABAD

Present:-

Shri Manohar Lal for the workman.

Shri K. P. Aggarwal for the management.

## AWARD

In exercise of powers conferred by clause (d) of sub-section (1) of section-10 of the Industrial Disputes Act, 1947, the Governor of Haryana referred the following dispute between Shri Dashrath Parshad Workman and the management of M/s Cast Master, Sector-6, Plot No. 46, Faridabad, to this Tribunal, for adjudication:—

Whether the termination of service of Shri Dashrath Parshad was justified and in order? If not, to what relief is he entitled?

- 2. Notices were issued to both the parties. In the claim statement filed on 8th September, 1984, it was alleged that claimant was er ployed as helper with the respondent on 2nd September, 1976 and was drawing Rs. 390 per month. It was then alleged that no charge-sheet was served on him nor any enquiry was held regarding his absence nor retrenchment compensation was given to him and that the discharge of the claimant with effect from 9th June, 1983 was illegal. It was, therefore, prayed that the claimant be reinstated with full back wages.
- 3. In the written statement, dated 17th September, 1984, it was pleaded that the dispute did not fall within the purview of Section-2A of the Industrial Disputes Act, 1947. It was then pleaded that all the workmen of the factory were laid off with effect from 25th March, 1983 to 19th May, 1983 and that lay off was lifted on 20th May, 1983, when the general recall notice was duly pasted on the main gate of the factory on the same date. It was further pleaded that practically all the workmen of the factory resumed their duty except the claimant who on enquiry was found to have gone to his home town during lay off period. It was then pleaded that a telegram was sent to the claimant to join duty, but he did not report himself for duty nor he sent any intimation asking for leave etc. It was then pleaded that since the claimant did not report for duty within the stipulated period of 10 days of recall notice as provided in clause 17(c) of the Certified Standing Orders of the Company, his name was struck off from the muster-toll of the Company on 6th June, 1983 and that a final communication was sent to the claimant along with a cheque for Rs. 1,366.75 Paise on account of retrenchment compensation and notice pay. It was, therefore, prayed that the claimant was not entitled to any relief.
- 4. The claimant in his rejoinder, dated 12th October, 1984 reiterated the pleas taken in the claim statement.
  - 5. On the pleadings of the parties, the following issues were framed on 16th October, 1984:—
    - (1) Whether the dispute does not fall within the purview of the Industrial Disputes Act? OPM.
    - (2) Whether the name of the claimant struck off from muster-roll according to the Certified Standing Orders? OPM.
    - (3) Whether the termination of service of Shri Dashrath Parshad was justified and in order? If not, to what relief is he entitled? OPM.

- 6. It may be mentioned that the respondent-management has examined two witnesses and documents, Ex. M-1 to M-13, have been tendered into evidence. The claimant has examined four witnesses and document Ex. W-1, has been tendered into evidence. After going through the entire evidence and hearing both the representatives of the parties, my findings on the above issues are as under:—
- 7. Issue No. 1.—From the pleadings of the parties, it is clear that there is a dispute between the parties as to whether the name of the claimant was rightly struck off from the Roll or not. The said dispute falls within the purview of the Industrial Disputes Act, 1947. Issue No. 1 is, therefore, decided accordingly against the management.
- 8. Issue No. 2.—The management examined Shri Bajrang Lal as MW-1 who deposed that Ex. M-1 was the copy of the appointment letter of the claimant which was signed by the Managing Director of the respondent Company. He further stated that the lay off was continued from 25th March. 1983 to 19th May, 1983 and that Ex. M-2 and M-3 were the notices sent to the Labour Commissioner, etc. which were also displayed on the notice-board. He further stated that the lay off was lifted on 20th May, 1983, when the notice was displayed on the main notice-board of the factory, copy of which was Ex. M-4. He then stated that all the workmen except the claimant joined the duty and that a telegram was sent to the claimant to join duty, copy Ex. M-5, and Ex. M-6 was the postal receipt in that respect, but the claimant did not join duty and his name was struck off from the muster-roll of the Company with effect from 6th June, 1983 and that the registered letter Ex. M-7 was sent to him while Ex. M-8 was the postal receipt. He further stated that the compensation and notice pay were sent to the claimant along with registered letter Ex. M-7. He then stated that according to the cash book, entries, Rs. 976.25 paise were sent as compensation and Rs. 390.50 as notice pay which amount was sent by cheque along with letter Ex. M-7. Ex. M-9 is the abstract of the attendance register, while Ex. M-10 and M-11 are the copies of the conciliation proceedings. Ex. M-12 is the copy of the Certified Standing Orders applicable to the tespondent Company. MW-2 Shri Prem Nath, General Foreman of the respondent company, stated that the claimant used to work in his department and that if any workman wanted to proceed on leave he had to fill in the prescribed leave form, which was sent to the Departmental Head, who either sanctioned or rejected the leave and the papers were sent to the Time Office for record. He further stated that the workman and the staff used to come at the factory gate for getting their attendance marked during the lay off period which wa
- 9. Shri Dashrath Parshad claimant has appeared as WW-1 and stated that on 9th May, 1983, he submitted his leave application to Shri Prem Nath because his father was ill who later on died and Ex. W-1 was the certificate in that respect. He then stated that he came back on 8th June, 1983 and came to the factory on 9th June, 1983 to join duty but the management refused to take him back on duty. He then stated that he did not receive any telegram or any intimation from the Management to join duty. He then stated that he did not receive compensation from the respondent company. MW-2 Shri Siri Ram stated that the claimant went on leave in his presence and gave his leave application to Shri Prem Nath who sanctioned the same, but he was not allowed to join duty. WW-3 Shri Mahi Pal Singh stated that the leave application form was filled in by the claimant in his presence when the claimant told him that his futher had died due to which he had to go on leave and that leave application was given to Shri Prem Nath, but the claimant was not allowed to join duty. WW-4 Shri Prem Parkash stated that the claimant proceeded on leave and gave the application to Shri Prem Nath after getting the same sanctioned, but he was not taken back on duty. Ex. W-1 is the certificate, in which it is recited that the father of the claimant died on 24th May, 1983.
- 10. A persual of the above evidence would show that the case of the management is that all the workmen were laid off on 25th March, 1983 and that lay off continued upto 19th May, 1983 and further that lay off was lifted on 20th May, 1983. The testimony of MW-1 Shri Bajrang Lal and MW-2 Shri Prem Neth is to the effect that general recall notice, copy Ex. M-4 was pasted on the main gate of the factory on 20th May, 1983 and that all the workmen resumed duty except the claimant. According to Clause 17(c) of the Certified Standing Orders of the respondent Company, copy Ex. M-12, the claimant should have joined duty within 10 days from the display of the recall notice and, consequently, the claimant was bound to join duty on or before 29th May, 1983. The claimant, however, did not turn up when the telegram copy Ex. M-5 was sent to him on 2nd June, 1983 asking him to join duty and Ex. M-6 is the postal receipt in that respect. Since the claimant did not recurse duty within the stigulated period, therefore, his name was struck off from the rolls of the respondent company on 6th June, 1983 and he was informed about it—vide registered letter copy Ex. M-7 on that very date when the cheque for Rs. 1,366.75 paise was sent to him as notice pay and compensation (Ex. M-6). Ex. M-1 is the postal receipt in that respect. Evidence produced by the management, therefore, shows, that the name of claimant was struck off from the roll of the respondent company on 6th June, 1983 because he did not comply with the provisions of Clause 17(c) of the Certified Standing Orders of the respondent company, Fx. M-12.
- 11. As regards the evidence led by the claimant, Shri Dashrath Parshad Claimant WW-1 stated in examination -ir-chief that he had submitted his leave application to Mr. Prem Nath MW-2. In his cross-examination, he stated that he gave the said application to Shri Kani Ram WW-2. Shri Siri Ram stated

that the leave application was given to Shri Prem Nath who sanctioned the same. WW-3 Shri Mahi Pal and WW-4 Shri Prem Parkash also made similar statements. The version of these witnesses is inconsistent because the claimant himself stated that the alleged leave application was given by him to Shri Ram and not to Shri Prem Nath. On the other hand Shri Prem Nath MW-2 stated that no leave application was given to him. If any leave application had been given and leave was sanctioned the same must have remained in the record of the Time Office. The oral evidence led by the claimant to the effect that leave application was given by him, therefore, cannot be accepted especially when it is inconsistent as mentioned above. The father of the claimant was ill and if the claimant wanted to proceed on leave he should have got the leave sanctioned. Since the claimant did not get the leave sanctioned, therefore, his name was rightly struck off from the rolls by the respondent company for his continued absence for more than 10 days with effect from 20th May, 1983. It may be mentioned that in the application Ex. M-13, the address of the claimant was given and in crossexamination, he admitted that his address was correct The telegram Ex. M-5 and registered letter Ex. M-7 were sent to the claimant on this address and since the same were not returned as undelivered, the presumption is that the same were duly received. The claimant, however, stated in cross-examination that he had changed his address but he did not inform the management regarding change of address. He further stated that his brother was residing on the address given in the application Ex. M-13. Consequently, the telegram as well as registered letter were duly received because the brother of the claimant was residing on the address given in the application Ex. M-13 while the claimant himself failed in his duty to inform the Management regarding change of address. In view of the above discussion, it is held that the name of the claimant was struck off from the muster roll according to clause 17(c) of the Certified Standing Orders of the respondent company copy Ex. M-12. The issue is decided accordingly in favour of the management.

12. Issue No. 3.—It was argued on behalf of the claimant that the discharge of the claimant amounted to termination of his service and since the provisions of the Section 25-F of the Industrial Disputes Act, 1947 were not complied with, therefore, the claimant was entitled to reinstatement with full back wages. Reliance for this submission was placed on the ruling reported as Pepsu Road Transport Corporation, Patiala versus Presiding Officer, Labour Court, Patiala and another, 1981(2) Service Law Reporter page 445 in which it is laid down that loss of lien in terms of Standing Order 17(4) amounts to retrenchment. The second ruling is Deshraj Sood and Industrial Tribunal & Others, 1-LLJ page 74, in which it is laid down that the terminal of the second ruling is Deshraj Sood and Industrial Tribunal & Others, 1-LLJ page 74, in which it is laid down that the terminal of the second ruling is Deshraj Sood and Industrial Tribunal & Others, 1-LLJ page 74, in which it is laid down that the terminal of the second ruling is Deshraj Sood and Industrial Tribunal & Others, 1-LLJ page 74, in which it is laid down that the terminal of the second ruling is Deshraj Sood and Industrial Tribunal & Others, 1-LLJ page 74, in which it is laid down that the terminal of the second ruling is Deshraj Sood and Industrial Tribunal & Others, 1-LLJ page 74, in which it is laid down that the terminal of the second ruling is Deshraj Sood and Industrial Tribunal & Others, 1-LLJ page 74, in which it is laid down that the terminal of the second ruling is Deshraj Sood and Industrial Tribunal & Others, 1-LLJ page 74, in which it is laid down that the terminal of the second ruling is Deshraj Sood and Industrial Tribunal & Others, 1-LLJ page 74, in which it is laid down that the terminal of the second ruling is Deshraj Sood and Industrial Tribunal & Others, 1-LLJ page 74, in which it is laid down that the terminal of the second ruling is Deshraj Sood and Industrial Tribunal & Others, 1-LLJ page 74, in which it is laid down that the terminal of the second ruling is Deshraj Sood and Industrial Tribunal & Others, 1-LLJ page 74, in which it is laid down that the terminal of the second ruling is Deshraj Sood and Industrial Tribunal & Others, 1-LLJ page 74, in which it is laid down that the terminal of the second ruling is the second ruling is the second ruling is nation in terms of Standing Order consequent on loss of lien amounts to retrenchment. In the present case, the provisions of Section 25-F of the Industrial Disputes Act, 1947 were complied with because the name of the claimant was struck off from the muster-roll on 6th June, 1983, when the compensation and notice pay amounting to Rs. 1,366.75 paise were sent to the claimant in the form of cheque No. 394068, dated 6th June, 1983 along with registered letter Ex. M-7, dated 6th June, 1983. Ex. M-8 is the postal receipt. The registered letter was sent on the correct address and it was not received back as undelivered. As such, the presumption is that it was duly received by the claimant. Consequently, the provisions of Section 25-F of the Industrial Disputes Act, 1947, have been complied with.

13. In view of the above discussion, it is held that the name of the claimant was struck off from the muster-roll of the respondent company according to clause 17(c) of the Certified Standing Orders of the respondent company according to clause 17(c) of the Certified Standing Orders of the respondent company according to clause 17(c) of the Certified Standing Orders of the respondent company according to clause 17(c) of the Certified Standing Orders of the respondent company according to clause 17(c) of the Certified Standing Orders of the respondent company according to clause 17(c) of the Certified Standing Orders of the respondent company according to clause 17(c) of the Certified Standing Orders of the respondent company according to clause 17(c) of the Certified Standing Orders of the respondent company according to clause 17(c) of the Certified Standing Orders of the respondent company according to clause 17(c) of the Certified Standing Orders of the respondent company according to clause 17(c) of the Certified Standing Orders of the respondent company according to clause 17(c) of the Certified Standing Orders of the respondent company according to clause 17(c) of the Certified Standing Orders of the respondent company according to clause 17(c) of the Certified Standing Orders of the respondent company according to clause 17(c) of the Certified Standing Orders of the respondent company according to clause 17(c) of the Certified Standing Orders of the respondent company according to clause 17(c) of the Certified Standing Orders of the company according to the clause 17(c) of the Certified Standing Orders of the clause 17(c) of the Certified Standing Orders of the clause 17(c) of the Certified Standing Orders of the clause 17(c) of the Certified Standing Orders of the Certified Standing Orders of the Certified Standing Orders of the Certified

pondent company, copy Ex. M-12, and since the provisions of Section 25-F of the Industrial Disputes Act. 1947, were duly complied with, therefore, the claimant is not entitled to any relief. The award is passed accor-

Dated, the 5th April, 1985.

R. N. BATRA, Presiding Officer, Industrial Tribunal, Haryana, Faridabad.

Endst. No. 297, dated 6th July, 1985.

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under Section 15 of the Industrial Disputes Act, 1947.

> R. N. BATRA, Presiding Officer Industrial Tribunal, Haryana, Faridabad.

The 3rd May, 1985

No. 9/5/84-6Lab/3209.—In pursuance of the provisions of section 17 of Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Rohtak in respect of the dispute between the workman and the management of M/s The Azad Transport Company Private Limited, Delhi Branch Office, Kharkhoda, District Sonepat:—

BEFORE SHRI B.P. JINDAL, PRESIDING OFFICER, LABOUR COURT ROHTAK

Reference No. 226 of 80

between

SHRI RAMAVTAR, WORKMAN AND THE MANAGEMENT OF M/S. THE AZAD MOTOR TRANSPORT COMPANY PRIVATE LIMITED, DELHI BRANCH OFFICE, KHARKHODA, DISTRICT SONEPAT

Shri S.N. Vats, A.R. for the workman. Shri Mohiuddin, A.R. for the management.

## AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana, referred the following dispute, between the workman Shri Ram Aviar and the management of M/s. The Azad Motor Transport Company Private Limited, Delhi Branch Office, Kharkhoda, District Sonepat, to this Court, for adjudication.—vide Labour Department Gazette Notification No. ID/SPT/141—80/53504, dated 14th October, 1980.

Whether the termination of services of Shri Ram Avtar, was justified and in order? If not, to what relief is he entitled?

- 2. After receipt of the order of reference, notices were issued to the parties. The parties appeared. The case of the workman is that he was working with the respondent as Bus Conductor since the month of August, 1973 and the respondent chose to terminate his services unlawfully on 22nd May, 1980 without any prior notice or payment of any retrenchment compensation and so, there is a prayer for reinstatement with continuity of service and full back wages.
- 3. In the reply filed by the respondent, preliminary objections taken are that the reference made by the Government of Haryana is incompetent, because the respondent has no office or any business activity within the territorial jurisdiction of Haryana State and so, the reference if any, could be made by the Delhi Administration and further that the case of the workman has not been espoused by any union and so, the reference is liable to be rejected. Furthermore, prior to the reference, no valid demand notice was raised by the workman and no proper conciliation proceedings were gone through and as such, it is alleged that the reference has been made by the Government in a mechanical and perfunctory manner without applying its mind. On merits, pleas taken are that the applicant was employed with the respondent at Delhi, who proceeded on leave with effect from 15th May, 1980 to 30th May, 1980 but never resumed his duties thereafter, though the respondent tried to contact the applicant through letters and verbal messages and that the present demand notice is a counter blast to the claim for recovery of Rs. 5,000 paid to the workman as advance on 20th March, 1980, which amount has not been returned by the applicant. It is further alleged that the applicant has remained gainfully employed since he relinquished his employment with the respondent.
  - 4. In the replication filed by the workman, he has rebutted the various pleas taken by the respondent.
  - 5. On the pleadings of the parties, the following issues were settled for decision on 4th February, 1982:
    - (1) Whether the reference is bad in law as per reasons given in preliminary objections? OPM
    - (2) Whether this Court has got jurisdiction to entertain the present reference ? OPW
    - (3) Whether the termination of services of Shri Ram Avtar was justified and in order? If not, to what relief is he entitled?
- 6. After the evidence of the management had been concluded and the case was posted for the evidence of the workman, there is an order, dated 29th October, 1982,—vide which, my learned predecessor Shri B.L. Dalar chose to consolidate this reference with the application No. 318 of 80 on the ground that the common question of law and facts, involved. He further directed that the evidence recorded in the application shall also be read in the present reference. In my opinion, such an order could not have been passed by my learned predecessor, because awards passed by this Court are published in the official gazette after acceptance by the Government of Haryana but no publication of the orders passed in the applications under section 33-C(2) is made. So, the reference and application cannot be disposed of through a single order.
- 7. Both the parties were allowed to produce their evidence. The management examined MW-1 Shri Abdul Ajij, MW-2 Shri Ashok Kumar and MW-3 Shri Mohiudin Faridi, Director of the respondent. On the other hand, the workman examined WW-1 Shri Jai Parkash and appeared himself as WW-2 The parties have also placed on record written arguments. In my opinion, the evidence adduced by the parties and the written arguments placed on record are of no help to this Court at all, because this reference can be disposed of on a point not pointedly agitated by any of the parties.
- 8. There is a plea by the respondent that there was no termination of service of the workman, because the workman had applied for leave from 15th May, 1980 to 30th May, 1980 and thereafter he did not resume his duties inspite of letters and reminders sent to him. The reference made to this Court is regarding the jurisdiction or otherwise of the alleged termination of the workman. So the terms of reference are absolutely alien to the real controversy between the parties, which as already observed revolves round the fact as to whether the applicant abandoned his employment of his own.
- 9. There is no denying the fact that the Labour Court or the Industrial Tribunal can travel beyond the terms of reference in matters incidental there to or ancillary for the decision of the reference but the Labour Court or Industrial Tribunal can not travel beyond the terms of reference and decide the question as to whether

the workman has abandoned his services of his own by not reporting for duty after he had gone on leave, as in this case. There is no denying the fact that the reference in the present case is limited to the fact as to whether the termination of services of the workman was justified and in order and if not, to what relief is the workman entitled. So, this Court shall be straying into the prohibited domain, in case, it starts adjudicating upon the fact as to whether the workman abandoned his employment of his own by not reporting for duty after the expiry of leave period. I, can draw sustenance for the aforesaid observations made by me from the law laid down in 1984 LLN 297 Sita Ram Vishnu Shirodkar and Administrator, Government of Goa and others. In this authority their Lordships of the Bombay High Court referred to a full Bench judgement of Delhi High Court in India Tourism Development Corporation, New Delhi veosus Delhi Administration, Delhi and others. Their Lordships further copiously extracted observations from the said judgement, which can be quoted here under with advantage:

> "It is settled law that the jurisdiction of the Labour/Industrial Tribunal in industrial dispute is limited to the points spedifically referred for its adjudication and the matters incidential thereto and it is not permissible to go beyond the terms of the reference. . . . . . It exercises such jurisdiction and power only upon and under order of reference limited to its terms. It cannot travel beyond the terms of reference except for ancillary matters. Making of an order of references is undoubtedly an administrative function, but even that is amendable to judicial review in the proceedings under Article 226 under certain facts and circumstances. An order of reference is open to judicial review if it is shown that the appropriate Government has not applied its mind to the material before it or has not taken into consideration certain vital facts which it ought to have taken into consideration.......... We are of the view that the existence of lockout itself being the real dispute between the management and its workmen, the term of reference proceeds on the assumption that there was lockout with effect from January, 1981. There is a very thin line of distinction between closure and a lockout...... The real dispute between the parties was whether there was at all a lockout or whether there was violence by the workmen and for that reason there was suspension of the working of the restaurant with effect from 2nd January. 1981, and whether the closure of the restaurant from 18th February, 1981, was proper and for that reason the termination of the services of the workmen was justified and legal. The appropriate Government has failed to take into consideration the entire set of circumstances brought out by the management in the two notices displayed and the replies furnished to the Delhi Administration to come to the conclusion whether it was a lockout or closure. Whether in fact there was a closure or lockout is the real dispute which can mere appropriately be determined in industrial adjudication...... The Industrial Tribunal cannot go into that question as the real dispute has not been made the subject-matter of the order of reference."

10. From the observations quoted above, there is no escape from the conclusion that this Court cannot travel beyond the terms of reference, which in the present case are absolutely alien to the actual controversy between the parties, which has emerged from the pleadings and from the evidence adduced by them before the Court. So, in my opinion, the present reference is bad in law, which seems to have been made by the concerned authorities in a most mechanical and perfunctory manner without applying its mind as to the real controversy between the parties. Since this reference is being answered on a legal point, I, need not discuss or decide other issues framed. There reference is answered and returned accordingly. There is no order as to cost.

Dated the 29th March, 1985.

B. P. JINDAL, Presiding Officer, Labour Court, Rohtak.

Endorsement No. 226/80/575, dated the 6th April, 1985

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

B.P. JINDAL, Presiding Officer, Labour Court, Rohtak.

No. 9/5/84-6Lab/3211.—In pursuance of the provisions of section 17 of Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Rohtak in respect of the dispute between the workmen and the management of (i) Chief Conservator of Forests, Haryana Chandigarh, (ii) Deputy Conservator of Forests, Forests Division, Bhiwani.

BEFORE SHRI B. P. JINDAL, PRESIDING OFFICER, LABOUR COURT, ROHTAK Reference No. 97 of 84

SHRI RANBIR SINGH, WORKMAN AND THE MANAGEMENT OF (i) CHIEF CONSERVATOR OF FORESTS, HARYANA, CHANDIGARH; (ii) DEPUTY CONSERVATOR OF FORESTS, FOREST DIVISION, BHIWANI

Workman in person.

Workman in person. None for the respondent.

## AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana, referred the following dispute, between the workman Shri Ranbir Singh and the management of (i) Chief Conservator of Forests, Haryana, Chandigarh; (ii) Deputy Conservator of Forest, Forest Division, Bhiwani, to this Court, for adjudication,—vide Haryana Government Gazette Notification No. 22332-38, dated 21st June, 1984:—

Whether the termination of services of Shri Ranbir Singh is justified and in order? If not, to what relief is he entitled?

- 2. After receipt of the order of reference, notices were issued to the parties. Respondent No. 1 did not appear inspite of service and so, ex parte proceedings order was passed against respondent No. 1. Initially, respondent No. 2 put in appearance and sent his Authorised Representative on two dates and also filed a reply to the claim filed by the workman, but later on respondent No. 2 also absented and as such, exparte proceedings order was passed against respondent No. 2 also.
- 3. The claim of the workman is that he was employed by the respondent as a Mali on 7th April, 1982 but his services were terminated on 27th December, 1983 by Shri Krishan Lal, Deputy Conservator of Forests,—vide his order of the even date and that his services were terminated unlawfully without assigning any reason in gross violation of the principles of natural justice. He further alleged that when he filed a demand notice with the Labour Department, during the conciliation proceedings the respondent levelled trumped up charges against him, regarding which no domestic enquiry was held and so, there is a prayer for reinstatement with continuity of service and full back wages.
- 4. As already observed respondent No. 2 did not put in appearance inspite of service through registered notice. Respondent No. 2 in the reply filed, controverted the claim of the petitioner in toto. The refrain of the reply is that the applicant was found absent from the Headquarter without permission and as such, a show cause notice was issued. The applicant sought an opportunity of personal hearing and also filed a reply to the show cause notice on 11th December, 1983, which was found unsatisfactory and so, he was given personal hearing on 26th December, 1983 and thereafter his services were terminated, because the applicant was on probations for a period of two years.
  - 5. In the rejoinder filed by the workman, he has controverted the various pleas taken by the respondent.
- 6. The circumstances under which respondent No. 2 was proceeded ex parte, merits some discussion. The Deputy Forest Officer, Bhiwani, sent a letter to this Court bearing Number 4047, dated 29th January, 1985, in which, it was alleged that it is not possible for the said office to send representative on each date of hearing and that the case be sent to the Labour Court, Bhiwani. The letter is not only couched in intemperate language but the same shows the naivety of the Officer, who addressed the said communication to this Court.
- 7. In ex parte evidence, the workman appeared as WW-1 and made a statement completely in corroboration of the demand notice.
- 8. I, see no reason, to disbelieve the sworn deposition made by the workman and find that the services of the workman have been terminated by the respondent unlawfully, because on the date his services were terminated, the workman was put in more than 240 days of actual work with the respondent and as such, the respondent was duty bound to comply with the provisions of section 25F of the Industrial Disputes Act, 1947 before terminating his services. No such compliance was made by the respondent and as such, his termination was illegal and unlawful and as such, the workman is ordered to be reinstated with continuity of service and full back wages. The reference is anwered and returned accordingly. There is no order as to cost.

Dated 29th March, 1985.

B. P. JINDAL

Presiding Officer, Labour Court, Rohtak.

Endst. No. 97/84/577, dated the 6th April, 1985

Forwarded (four copies) to the Secretary to Government, Haryana, Labour & Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947

B. P. JINDAL,

Presiding Officer, Labour Court, Rohtak.